



COVERSHEET

Minister	Hon Kris Faafoi	Portfolio	Immigration
Title of Cabinet paper	Update on Ministerial Group considering class exceptions	Date to be published	8 June 2021

List of documents that have been proactively released

Date	Title	Author
November 2020	Update on Ministerial Group considering class exceptions	Office of the Minister of Immigration
9 November 2020	CAB-20-MIN-0466	Cabinet Office

Information redacted

YES

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been redacted for the reason of Constitutional conventions.

In Confidence

Office of the Minister of Immigration

Update on Ministerial Group considering class exceptions

Proposal

- 1 This paper seeks to confirm the processes and operating model of the Ministerial Group considering class exceptions, given that a number of upcoming decisions are time-critical and require decisions as soon as possible.

Background

- 2 On 19 March 2020, Cabinet agreed to restrict entry to New Zealand from all persons from other countries [CAB-20-MIN-0122]. New Zealand citizens and residents are exempt from this border closure¹. In addition, Cabinet agreed a small number of exceptions to the closed border for some temporary visa holders². On 8 June 2020 Cabinet agreed to some limited adjustments to the exception for ‘other critical workers’ and also clarified the policy for partners of New Zealand citizens and residents and the maritime border [CAB-20-MIN-0268].
- 3 On 21 September Cabinet agreed to establish a Ministerial Group led by the Minister of Immigration to consider proposals for class exceptions to border restrictions, for agreement by the group of Ministers with Power to Act over the general election and government formation period [CAB-20-MIN-0453]. Class exceptions provide a way forward for groups that do not fit within the current border exceptions, but which could have benefit for New Zealand, including economic gain (or avoidance of loss) or cultural or social value.
- 4 The objective of the Ministerial group is to consider proposals for class exceptions, and ensure that key considerations such as Managed Isolation and Quarantine (MIQ) capacity, economic, cultural and social benefits, and labour market impacts have been adequately considered. Proposals are developed by Senior Officials in consultation with the relevant sectors, and assessed according to the criteria agreed to by Cabinet in the 21 September Cabinet paper *COVID-19 Managing Exceptions to Border Restrictions* [CAB-20-MIN-0453].
- 5 Cabinet agreed to the following decision-making framework for deciding class exceptions:
 - 5.1 **Proposals for class exceptions** will be considered by the Ministerial Group led by the Minister of Immigration, comprising the Minister for Economic Development, Minister of Housing, Minister of Health and Minister of Internal Affairs, for agreement by the group of Ministers with Power to Act

¹ Current exemptions to the closed border allow New Zealand citizens and residents, their partners and children, Australians who live in New Zealand, diplomats and maritime crews to enter.

² The current key categories for exceptions include critical health workers, ‘other critical workers’, and people travelling for humanitarian reasons. The ‘other critical worker’ category includes those associated with specified major infrastructure projects, events and government-approved programmes.

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over the general election and government formation period [CAB-20-MIN-0392 refers].

- 5.2 **Decisions on changes to lists, or criteria used to create lists**, for major infrastructure projects, Government-approved events, Government-approved programmes, and Government-to-Government agreements are to be made by the Ministerial Group led by the Minister of Immigration.
 - 5.3 **Decisions on any other proposals for changes to border entry policies** (such as the expansion of current critical worker exception criteria, or proposals for new categories of exceptions) will be assessed by the Ministerial Group before being put forward for Cabinet approval.
- 6 On 14 September, the first meeting of the Ministerial Group resulted in Ministers agreeing in principle to three workforce class exceptions, which were subsequently agreed by Cabinet on 21 September:
- 6.1 Veterinarians for large animal and livestock roles – up to 30 individuals
 - 6.2 Rural contractors who are experienced horticulture and agricultural mobile plant operators – up to 210 workers
 - 6.3 Deep-water fishing crew members as a one-off entry, to work on identified fishing ships in New Zealand for up to 6 months – up to 570 crew members
- 7 On 30 September 2020, the second meeting of the Ministerial Group resulted in Ministers agreeing in principle to two “other group” class exceptions for the following groups, which were subsequently agreed by Ministers with Power to Act:
- 7.1 up to 250 returning PhD and post-graduate international students, plus families
 - 7.2 essential travellers transiting New Zealand to and from the Pacific – Samoa, Tonga, Cook Islands, Niue and Tokelau – up to 100 for six months
- 8 Ministers also agreed that a border exception for halal slaughterers was not required as the extension to the stand-down requirement meant that the current workforce could be retained onshore.
- 9 To date, the following numbers of people have been invited to apply for a visa as part of a class exception³.

Number of Workers	Applications on Hand	Invited to Apply	Maximum (class exception cap)
Rural contractors (agricultural mobile plant operators)	9	122	210
Deepwater fishing crew	8	464	570
Mixed and large animal veterinarians		11	30
Total	17	597	810

³ These numbers do not indicate actual border entries.

Proposed process for Ministerial Group post-election

Changes to membership

- 10 Changes to the membership of the Ministerial group are now necessary to reflect new portfolio responsibilities.
- 11 I propose that the new membership of the Ministerial Group considering class exceptions consists of:
 - 11.1 Minister of Immigration (chair)
 - 11.2 Minister for COVID-19 response (encompassing MIQ and health considerations)
 - 11.3 Associate Minister of Finance (Hon Megan Woods)
 - 11.4 Minister for Economic and Regional Development (to provide an economic lens on proposals considered)
 - 11.5 Minister for Social Development and Employment (to provide a New Zealand workforce perspective).
- 12 I propose that relevant portfolio Ministers will continue to be consulted and invited to relevant meetings for proposals relating to their portfolios, but will not be decision makers. For example, the Minister of Agriculture will be consulted on proposals relating to the primary industries.

Operating model and processes

- 13 On 21 September Cabinet agreed that proposals for class exceptions would be considered by the Ministerial Group, for agreement by the group of Ministers with Power to Act over the general election and government formation period [CAB-20-MIN-0453 refers].
- 14 Following government formation, I seek Cabinet's agreement that decisions made by the Ministerial Group are referred to Cabinet rather than Ministers with Power to Act.

Exception requests

- 15 As part of the Cabinet paper *COVID-19 Managing Exceptions to Border Restrictions*, Cabinet agreed to receive regular reporting on demand for exceptions (and on supply and demand for places in Managed Isolation and Quarantine), given the breadth of sectoral interests in these issues. This demand is captured in the long-list of groups seeking entry to New Zealand (attached at Appendix One).

Constitutional conventions

A number of proposals which are due to be considered are time-critical

- 18 Two proposals have been identified by officials for consideration by Ministers in particular which are time-critical: Recognised Seasonal Employer (RSE) workers and shearers. If Cabinet agrees to the processes outlined in this paper, the Ministerial Group will meet as soon as possible to consider these proposals.
- 19 Officials have provided initial advice on an RSE border exception proposal for up to 2000 RSE workers to arrive for the 2020/21 season. However, further information is required in order for the Ministerial Group to make an informed decision. In making the decision, the Ministerial group will be considering updated information on conditions (and mechanisms to ensure conditions are met) and factors including:
- 19.1 Limiting the cohort to experienced RSE workers from countries that agree to safely repatriate their workers onshore and any new workers that may arrive. MFAT is working on an appropriate mechanism for this agreement with individual Pacific Island countries.
 - 19.2 Ensuring arriving RSE workers are deployed to regions with the greatest workforce needs to meet harvest requirements. This plan will be developed with the sector taking into account the locations and preferences of RSE workers already onshore who wish to stay. Perfect alignment of all workers to demand will not be possible as some onshore workers may not wish to move regions (and some may wish to return home).
 - 19.3 Quarantine costs will be met by the employer and a declaration will be made that these costs will not be recouped through increased charges to RSE workers.
 - 19.4 An exception cap will represent the minimum viable number to support critical workforce shortages and benefit the Pacific, while being within MIQ capacity, and fully utilising potential New Zealand and onshore migrant workers.
- 20 If approved in principle by the Ministerial Group, Cabinet will need to consider these exceptions at the 16 November Cabinet meeting. This is in order to ensure RSE workers can potentially arrive in time to meet demand for peak harvests in March/April 2021 (for RSE workers), and shearers to potentially arrive in time for the main shearing season in the South Island from January (noting that it is already too late for their arrival for the North Island season beginning in November).
- 21 Even within such timeframes, the work required to operationalise and ready a cohort of RSE workers for arrival by March/April 2021 is substantive. A decision is needed soon as implementation requires a number of steps. These steps include agreeing distribution of workers between individual employers with the sector (up to the cap

approved by Cabinet), developing repatriation agreements with Pacific countries (according to the terms agreed by Cabinet), identifying and recruiting eligible workers, granting visas (which for some will include x-rays), and arranging flights to align with MIQ capacity.

Financial Implications

22 There are no direct financial implications to this paper.

Legislative Implications

23 No changes to law or regulations are proposed.

Impact Analysis

24 A Regulatory Impact Statement (RIS) is not required for this paper.

Population Implications

25 There are no direct population implications to this paper.

Human Rights

26 There are no direct human rights implications to this paper.

Consultation

27 This paper has not been consulted with other agencies.

Proactive Release

28 This paper will be proactively released following Cabinet consideration.

Recommendations

The Minister for Immigration recommends that Cabinet:

- 1 **Note** that on 21 September Cabinet agreed to establish a group of Ministers led by the Minister of Immigration, and comprising the Minister for Economic Development, Minister of Housing, Minister of Health, and Minister of Internal Affairs to consider proposals for class exceptions, for agreement by the group of Ministers with Power to Act over the general election and Government formation period;
- 2 **Agree** that, in order to reflect new portfolio responsibilities post-election, the membership of the Ministerial Group, led by the Minister of Immigration, will comprise the Minister for COVID-19 response, the Associate Minister of Finance, the Minister for Economic and Regional Development, and the Minister for Social Development and Employment;
- 3 **Agree** that decisions made by the Ministerial Group are referred to Cabinet for approval rather than Ministers with Power to Act;

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- 4 **Note** that relevant portfolio Ministers will continue to be consulted on proposals for class exceptions, to inform the recommendations of the Ministerial Group to Cabinet;
- 5 **Note** that the Ministerial Group intends to consider proposals for class exceptions for RSE workers and shearers which are time-critical and if agreed will need to be considered by Cabinet at the 16 November meeting if workers are to potentially arrive in time for peak labour demand.

Authorised for lodgement

Hon Kris Faafoi

Minister of Immigration

Appendices

Appendix 1: Longlist of exception requests

Significant Group	Agency with responsibility for the sector or group	Numbers (agency estimate)	Timing	Eligible Under Current Border Exceptions	Need or could use bespoke MIQ?	Key update	Comments/next steps
Constitutional conventions							

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